

## REMARKS

This Amendment and Response is responsive to the March 25, 2004 Final Office Action. In that action, claims 28-30, 32, 33, 42-44, 50-55 and 57-60 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Nadeau (USPN 6,240,449), in view of Smyk (USPN 6,161,128), White (USPN 6,021,126), and Horrer, et al. (USPN 6,163,605). Claims 45-49 and 56 were rejected under §103(a) as being unpatentable over Nadeau, in view of Smyk, White, Horrer, and in further view of Swartz (USPN 6,445,694).

Each of the claims is rejected as obvious in light of the combination of Nadeau and various other patents. A Declaration Under 37 C.F.R. 1.131 is provided with this Amendment and Response. As can be seen therein, the present invention was first conceived prior to the filing date of the Nadeau reference as evidenced by the Invention Disclosure form (see Tab 1 of the 131 Declaration). Further, the due diligence from prior to said filing date to the filing of the present application is evidenced by the U.S. West Communications' Law Department making a determination to file a patent application on this disclosure and sending it to Kenneth J. Johnson at Holme Roberts & Owen LLP to have an application prepared with an April 9, 1999 cover letter, by the cover letter from Mr. Johnson to the inventor dated August 4, 1999 enclosing an initial draft of a patent application on this invention, the patent application enclosed with that cover letter, the subsequent feedback from the inventor received by Mr. Johnson, and a second cover letter with a draft sent by Mr. Johnson to the inventor on October 8, 1999.

All of this evidence, taken together, demonstrates prior conception and due diligence as required by 37 C.F.R. 1.131. Accordingly, it is hereby requested that the Nadeau reference be removed as a reference against the claims of the present invention. Accordingly, this overcomes the §103 rejections that are largely based on the Nadeau reference.

Based upon the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

By: 

Robert G. Crouch  
Registration No. 34,806  
3151 South Vaughn Way, Suite 411  
Aurora, Colorado 80014  
(720) 562-5506

Date: Sep 13, 2004